

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of DEANDRE IRVING, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

CORINA IRVING,

Respondent-Appellant.

UNPUBLISHED
September 22, 2005

No. 260395
Kent Circuit Court
Family Division
LC No. 04-052841-NA

In the Matter of DEONTAY IRVING, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

CORINA IRVING,

Respondent-Appellant.

No. 260396
Kent Circuit Court
Family Division
LC No. 04-052842-NA

Before: Smolenski, P.J., and Murphy and Davis, JJ.

PER CURIAM.

Respondent appeals as of right from the trial court's order terminating her parental rights to the minor children pursuant to MCL 712A.19b(3)(c)(i), (3)(g), and (3)(j). We affirm.

In order to terminate parental rights, the trial court must find that at least one of the statutory grounds for termination has been established by clear and convincing evidence. *In re Hamlet (After Remand)*, 225 Mich App 505, 522; 571 NW2d 750 (1997). We review the trial court's findings under the clearly erroneous standard, MCR 3.977(J); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999), meaning "although there is evidence to support it," we are "left with a definite and firm conviction that a mistake has been made." *In re JK*, 468 Mich 202, 209-210;

661 NW2d 216 (2003). In other words, the finding must strike us as more than just maybe or probably wrong. *In re Sours, supra*.

Respondent first argues that the trial court erred in relying on MCL 712A.19b(3)(c)(i) as a basis for termination because 182 days had not passed between the date of the initial dispositional order and the date the termination petition was filed. Respondent's argument is without direct merit because the statute does not refer to the date a termination petition is filed.

Respondent also argues that the trial court clearly erred in terminating her parental rights under MCL 712A.19b(3)(g) and (j). Respondent asserts that she was showing progress and her slow rate of progress was due to her admitted low level of intellectual functioning. Respondent contends that, given her limitations, the trial court did not give her sufficient time to demonstrate compliance with the parent/agency agreement, focusing instead only on the negative evidence and giving insufficient weight to her accomplishments. We disagree.

The evidence at the termination trial focused on respondent's alcohol abuse and lack of insight into her problems as the result of her low level of intellectual functioning. During her involvement with social services, respondent consistently denied having an alcohol problem. Yet since the twins' birth in September 2003, respondent was found to be intoxicated at two separate agency appointments in December 2003, was arrested in February 2004 for trespassing on the putative father's property and found to be intoxicated, and was arrested for OUIL in June 2004. Respondent's blood alcohol level was .271 at one of the December 2003 incidents, yet she was still able to walk and talk in a somewhat normal manner despite being of a petite stature. This evidence supports an inference that respondent had built up a tolerance to alcohol over time. Respondent's random urine screens never tested positive for alcohol, but testimony explained that this did not demonstrate that respondent did not abuse alcohol because alcohol passes through the body fairly quickly.

Respondent's post-August 2004 actions outwardly indicate a desire on her part to address her alcohol abuse and comply overall with the parent/agency agreement. But respondent stated, as late as September 2004, that she did not have a problem with alcohol and was simply jumping through the hoops required in order to get the twins back. The goals of respondent's treatment plan were not satisfied by simply going through the motions without respondent coming to a true understanding of the problems in her life because, significantly, they were the same issues that had been identified in respondent's parent/agency agreement regarding her older children.¹ During the pendency of the earlier case, respondent consistently denied having any problems with mental illness or substance abuse. That attitude was pervasive throughout this case as well. Respondent's failure to understand the trigger(s) of her psychotic breakdown in 2000, or to address her alcohol use, even after being afforded many years and resources to address these issues, renders her potentially unstable. Despite evidence that she had improved in some ways and even might have been able to provide care for the twins if they were returned to her at the

¹ Respondent's parental rights to her two older children were terminated on May 25, 2004, and this Court affirmed that decision on appeal. *In re Williams/Brown, Minors*, unpublished memorandum opinion of the Court of Appeals, issued February 1, 2005 (Docket No. 256353).

time of the hearing, the trial court did not clearly err in at least finding a risk of harm to them if so returned.

Affirmed.

/s/ Michael R. Smolenski

/s/ William B. Murphy

/s/ Alton T. Davis